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ABSTRACT

Funding for the Navajo Community College was reviewed by the Comptroller General of the United States to determine if the Bureau of Indian Affairs' (BIA) regulations and method of computing full-time equivalent enrollments were consistent with the Tribally Controlled Community College Assistance Act of 1978 (P.L. 95-471). The investigation revealed that during fiscal year 1980 appropriation hearing, the BIA overestimated the Navajo Community College's Indian enrollment. The figure used for the "full-time equivalent" student enrollment resulted in the Bureau's obligating $3.9 million more to the college than allowed by the grant formula. Had the grant formula prescribed by the act been applied, the college would have received about 50% less funding than it received the previous fiscal year. The report recommends that the Secretary of the Interior immediately review the Navajo Community College's management practices and operating expenses to determine the most equitable method for funding the college and report findings to the appropriate congressional committees for their consideration in making necessary appropriation and legislative changes. (Author/NEC)

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REPORT BY THE

Comptroller General

OF THE UNITED STATES

Navajo Community College Funding Problems

During fiscal year 1980 appropriation hearings, the Bureau of Indian Affairs overestimated the Navajo Community College's Indian enrollment. The figure used for the "full-time equivalent" student enrollment resulted in the Bureau's obligating $3.9 million more to the college than allowed by the grant formula of the Tribally Controlled Community College Assistance Act of 1978.

Had the grant formula prescribed by the act been applied, the college would have received about 50 percent less funding than it received the previous fiscal year. Apparently the Congress did not anticipate that the act would drastically reduce funding for the college.

RC 012049

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CED-80-79
MARCH 21, 1980

COMPTROLLER GENERAL OF THE UNITED STATES
WASHINGTON, D.C. 20548

B-197420

The Honorable Eldon Rudd
House of Representatives

Dear Mr. Rudd:

In accordance with your September 24, 1979, letter and agreements reached with your office, we reviewed the funding for the Navajo Community College to determine if the Bureau of Indian Affairs' regulations and method of computing full-time equivalent enrollments were consistent with the Tribally Controlled Community College Assistance Act of 1978, Public Law 95-471.

This report points out that during the fiscal year 1980 appropriation hearings the Bureau overestimated the Navajo Community College's full-time equivalent Indian enrollment. This resulted in the Bureau obligating to the college $3.9 million more than the 1978 act's grant formula allowed. As of February 24, 1980, the college had received about $3.94 million of the $6.4 million obligated. The report also points out that in the case of the Navajo Community College, applying the grant formula prescribed by the act would have resulted in the college receiving about 50 percent less funding than in the prior fiscal year.

Therefore, the report recommends that the Secretary of the Interior immediately review the Navajo Community College's management practices and operating expenses to determine the most equitable method for funding the college. This should be reported to the appropriate congressional committees for their consideration in making necessary appropriation and legislative changes.

As requested by your office, we have not obtained agency comments. However, we have discussed our findings with agency officials and considered their comments in the report.

MAY 27 1980

As arranged with your office, we are sending copies of this report to the Director, Office of Management and Budget; the Chairmen, House Committees on Appropriations, Government Operations, and Interior and Insular Affairs; the Chairmen, Senate Committees on Governmental Affairs, Subcommittee on Interior and Related Agencies, Committee on Appropriations, and Select Committee on Indian Affairs; the Secretary of the Interior; the Assistant Secretary for Indian Affairs; the Director, Office of Indian Education Programs; the Inspector General, Office of Inspector General; and the President, Navajo Community College. We will also send copies to other interested parties and make copies available to others upon request.

Sincerely yours,

Comptroller General
of the United States

COMPTROLLER GENERAL'S REPORT TO CONGRESSMAN ELDON D. RUDD

NAVAJO COMMUNITY COLLEGE FUNDING PROBLEMS

D I G E S T

The Bureau of Indian Affairs' previous method of funding community colleges controlled by Indian tribes did not ensure sufficient funding for operation and maintenance. To stabilize funding at an adequate level, the Congress passed the Tribally Controlled Community College Assistance Act of 1978.

The act established an annual grant formula based on the number of "full-time equivalent" Indian students enrolled for an academic year multiplied by $4,000. However, for the Navajo Community College, using the grant formula to compute funding for fiscal year 1980 would have provided $2.5 million, rather than the $6.4 million the Bureau obligated to the school under its regular budget process.

GAO reviewed the funding for the Navajo Community College to determine if the Bureau's regulations and methods of computing full-time equivalent students were consistent with the act. GAO found that although the grant formula required by the 1978 act was effective for fiscal year 1980, the Bureau did not use the grant formula in developing its fiscal year 1980 budget request because its request had been forwarded to the Office of Management and Budget before passage of the act. (See p. 4.)

During fiscal year 1980 appropriation hearings and after the 1978 act had passed, the Bureau estimated, at the Congress' request, that the Navajo Community College would have 1,600 full-time equivalent students. However, the estimate was not computed

in accordance with the act. Instead the Bureau used a college-supplied figure, computed by adding together the full-time equivalent counts for each semester, which was not averaged to arrive at a figure for the academic year. Based on this estimate, the Congress appropriated $6.4 million for the college. GAO estimated that based on the grant formula there were only 631 full-time students. As a result of the Bureau's overstatement, the amount obligated to the college was $3.9 million more than the act's grant formula allowed. The Bureau plans to take no action to reduce the funding level. As of February 29, 1980, the college had received about $3.94 million of the $6.4 million obligated. (See pp. 4 and 5.)

The Bureau's regulations appear consistent with the 1978 act except for a provision that appears to allow the Navajo Community College to receive Federal funding for operation, maintenance, and construction under any other Federal law. The Federal funding for operation, maintenance, and construction activities is authorized only under the Navajo Community College Act of 1971, as amended by the Tribally Controlled Community College Assistance Act of 1978. (See pp. 8 and 9.)

The full-time equivalent enrollment the Bureau used in its fiscal year 1981 budget submission was 624. GAO estimated that the enrollment is 723. (See p. 6.)

RECOMMENDATIONS TO THE SECRETARY OF THE INTERIOR

The Secretary of the Interior should require the Assistant Secretary for Indian Affairs to:

--Review, with the assistance of the Inspector General, the Navajo Community College's management practices and

operating expenses to determine the most equitable method for funding the college. This should be reported to the appropriate congressional committees for their consideration in making necessary appropriation and legislative changes.

--Revise the regulations so that they do not appear to allow Federal funding of the Navajo Community College for operations, maintenance, and construction activities under the Snyder Act of 1921 or any law other than the Navajo Community College Act of 1971, as amended.

AGENCY COMMENTS

To expedite this report, the requestor asked GAO not to obtain agency comments; however, GAO did discuss the findings with agency officials and considered their comments in the report.

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ABBREVIATIONS

BIA	Bureau of Indian Affairs
GAO	General Accounting Office
OMB	Office of Management and Budget

CHAPTER 1

INTRODUCTION

The concept of Federal support of Indian-controlled community colleges is rooted in the trust responsibility of the U.S. Government for Indian tribes. Historically, the Snyder Act of 1921 (25 U.S.C. 13) authorizes the Bureau of Indian Affairs (BIA) to

> "* * * direct, supervise, and expend such moneys as Congress may from time to time appropriate, for the benefit, care, and assistance of the Indians throughout the United States for the following purposes: General support and civilization, including education. * * *."

The Snyder Act, until 1978, was used to authorize funding for tribally controlled community colleges, except for the Navajo Community College which has been treated separately. The Navajo Community College is specifically authorized funding by the Navajo Community College Act of 1971, 25 U.S.C. 640a et seq.

The Tribally Controlled Community College Assistance Act of 1978, Public Law 95-471, was passed on October 17, 1978, to provide both the Navajo Community College and the other colleges with a specific formula for assuring stabilized and equitable funding under separate and distinct appropriations. However, the act continues to give separate treatment to the Navajo Community College. Title I of the act authorizes grants for operating and improving the other Indian-controlled community colleges to ensure continued and expanded educational opportunities for Indian students. Title II amends the Navajo Community College Act of 1971 for the purpose of providing grants to this institution for construction, operation, and maintenance.

The Navajo Community College is treated separately by the act because the Navajo Tribe (1) is the largest American Indian tribe in the United States, (2) has a community college on its reservation, and (3) needs to expand its college. In addition, the community college needs had already been recognized by the Congress through passage of the Navajo Community College Act.

With the exception of the Navajo Tribe, tribes must request that BIA conduct a feasibility study to determine whether there is justification to encourage and maintain a community college. Only one feasibility study can be requested per year. A positive feasibility study entitles the

community college to apply for financial assistance. A negative feasibility study can be appealed to the Assistant Secretary for Indian Affairs within 30 days of receipt of such determination. As of January 1980 no feasibility studies had been made of the 10 colleges that BIA had determined met the definition of tribally controlled community colleges because the Office of Management and Budget (OMB) questioned BIA's evaluation criteria.

The Tribally Controlled Community College Assistance Act of 1978 authorizes the Secretary of the Interior to provide grants to eligible colleges in an amount equal to $4,000 for each full-time equivalent Indian student in attendance during the academic year. Full-time equivalent is defined as the number of Indian students enrolled at the end of the sixth week of an academic term 1/ as full-time, and the full-time equivalent of part-time enrollees, which is determined by adding part-time students' credit hours and dividing by 12. Grants are determined by adding the full-time equivalent enrollment for each academic term and dividing by the number of terms in the academic year, times $4,000, except no grant can exceed the annual operating expenses of the college's education program. For example, in a school operating on a two semester basis, the grant calculation would be:

$$\text{Annual grant} = \frac{\text{Fall semester count and spring semester count}}{2} \times \$4{,}000$$

The Tribally Controlled Community College Assistance Act authorizes funding for the 3 fiscal years beginning October 1, 1979. The act authorizes amounts to be appropriated for distribution to the eligible tribally controlled community colleges. The act also specifically allows the colleges, except the Navajo Community College, to receive additional funding from other Federal sources.

Congressman Eldon Rudd asked us to determine the number of full-time equivalent students, as defined by the Tribally Controlled Community College Assistance Act, for the Navajo Community College. He also asked us to determine whether (1) BIA's implementing regulations and method of computing full-time equivalent enrollments are consistent with the act, and whether BIA plans to apply them to community colleges as they are found to be eligible and (2)

1/According to BIA regulations, an academic term is a semester, trimester, or other such period (not less than 6-weeks in duration), that the community college normally subdivides its academic year but does not include a summer term.

BIA properly and accurately applied the full-time equivalent funding formula in developing Navajo Community College's fiscal year 1980 and 1981 budgets.

SCOPE OF REVIEW

We reviewed and compared the Tribally Controlled Community College Assistance Act with BIA regulations to determine if the regulations and method of computing full-time equivalent enrollment were consistent with the act. We also reviewed congressional reports, BIA and Navajo Community College budget documents for fiscal year 1980, and BIA's support documents for its fiscal year 1981 budget to determine if the formula was used.

To verify Navajo Community College enrollment, we interviewed college officials and obtained copies of their computer printouts listing the enrollment for fall 1978 and spring and fall 1979. To determine the accuracy of the printout, we sampled 304 names, or 15 percent of the total listed enrollment of 2,022 students 1/ for spring 1979. We traced the names, grades, credit hours, and racial codes to supporting documents, including applications for enrollment, grade reports, drop/add cards, and official transcripts. We found only one error. This was not a random sample, but does indicate the records were fairly accurate.

We interviewed BIA officials regarding sections of the act and regulations dealing with the formula and the additional funding provision, BIA's fiscal year 1980 and 1981 budget process, and the full-time equivalent enrollment figures BIA provided to the Congress during the appropriation hearings for fiscal year 1980. These figures were also used in developing the fiscal year 1981 budget.

We made our review at BIA headquarters in Washington, D.C.; BIA's area office in Window Rock, Arizona; the Navajo Community College in Tsaile, Arizona, and its satellite campus at Shiprock, New Mexico.

At the request of Congressman Rudd's office, we did not obtain agency comments; however, we did discuss our findings with the Deputy Assistant Secretary for Indian Affairs and the Director, Office of Indian Education Programs, Department of the Interior, and incorporated their comments where appropriate.

1/This number is not the same as the computed full-time equivalent enrollment since this number includes both full-time and part-time students.

CHAPTER 2

CONGRESS WAS PROVIDED INCORRECT FULL-TIME EQUIVALENT ENROLLMENTS FOR NAVAJO COMMUNITY COLLEGE

During the fiscal year 1980 appropriation hearings, BIA informed the Congress that the full-time equivalent enrollment at the Navajo Community College was 1,600 students. Our estimated figure, however, was much less--631 full-time equivalent students. Relying on the 1,600 figure, the Congress appropriated $6.4 million or about $3.9 million more to the college than should have been allowed by the Tribally Controlled Community College Assistance Act. As of February 29, 1980, the college had received about $3.94 million of the $6.4 million appropriated and subsequently obligated. Also, the 624 full-time equivalent enrollment figure used in formulating the fiscal year 1981 budget should be 723 according to our calculations. If our estimated enrollment figures are used for funding the Navajo Community College, the college will receive considerably less funding in 1980 and future years than in prior years, a result which the Congress apparently did not anticipate.

BIA's implementing regulations are consistent with the Tribally Controlled Community College Assistance Act except that one of the regulations can be interpreted as allowing the Navajo Community College to receive Snyder Act funds, which is not consistent with the law.

BIA DID NOT PROVIDE THE CONGRESS AN ACCURATE FULL-TIME EQUIVALENT ENROLLMENT FIGURE DURING 1980 APPROPRIATION HEARINGS

The 1978 act requires use of the grant formula for Navajo Community College's fiscal year 1980 appropriations. However, since the act was not passed until October 1978 and BIA had submitted its fiscal year 1980 budget to OMB in September 1978, the grant formula was not used in preparing the budget. However, during BIA's fiscal year 1980 appropriation hearings, BIA was asked to provide a full-time equivalent enrollment for the Navajo Community College based on the 1978 act's grant formula. In September 1979, BIA gave the Congress a figure of 1,600. However, the enrollment had not been computed in accordance with the act, but was given by Navajo Community College. The college added all credit hours per semester and divided by 12 to arrive at the number of full-time equivalent Indian students. BIA officials were aware

the figure was not accurate because they knew how the college incorrectly computed full-time equivalent enrollment.

We believe that BIA was remiss in its responsibility to ensure that the Congress was provided a correct enrollment figure. BIA accepted the college's figure even though it knew that its impending regulations made that figure grossly inaccurate. If BIA had finalized the regulations by August 1979 as required by the act, it would have been better able to convince the college of its error. Instead, the regulations were not finalized until November 1979, when the appropriation hearings were concluded. More important, BIA told the Congress that the 1,600 figure was reasonably accurate, and as a result the Congress appropriated $3.9 million more for the college than what the act allowed.

The Senate Report on the Department of the Interior and Related Agencies 1980 appropriation bill states that the 1,600 enrollment figure was used pending development of final regulations for formula funding, which indicates they expected the actual funding to be based on the enrollment derived from this formula. Also, regulations provide that if BIA's Director of the Office of Indian Education Programs determines a community college received, through mistake or fraud, overpayments, the Director should promptly notify the college and adjust payments to the college in the same or subsequent academic years to compensate for each overpayment or otherwise attempt to recover the overpayments. The college may appeal the Director's decision to the Assistant Secretary for Indian Affairs.

The Deputy Assistant Secretary for Indian Affairs told us that BIA and OMB agreed to let the college receive the full $6.4 million appropriated in fiscal year 1980 because without sufficient time to plan for alternative funding or operational changes, the $3.9 million reduction would have had an enormous negative impact on the college's operations. He also stated that BIA does not plan to recover the overpayment to the college. He added that the other Indian community colleges' funding under the grant formula should be adequate. However, the other colleges' full-time equivalent Indian enrollments have not been verified, and the enrollment could be higher or lower and thus a similar situation as Navajo Community College could evolve. The Deputy Assistant Secretary assured us that tribally controlled community colleges' full-time equivalent Indian enrollments will be verified during their feasibility studies.

ESTIMATED NAVAJO COMMUNITY COLLEGE FULL-TIME EQUIVALENT INDIAN STUDENTS

Based on the grant formula and available enrollment data, the Navajo Community College's full-time equivalent Indian students and estimated grant awards which should have been used for fiscal year 1980 and 1981 budgets are:

Fiscal year	Full-time equivalent Indian students	Award per full-time equivalency	Estimated grant award
1980	631	$4,000	$ 2,524,000
1981	723	4,000	2,892,000

The academic terms used in calculating the full-time equivalent Indian students for fiscal year 1980 were the fall 1978 and spring 1979 semesters. Spring and fall 1979 semesters were used for fiscal year 1981 calculations. 1/

Because some students' credit hours had not been posted or they had not been identified as Indian or non-Indian, the full-time equivalent enrollment could be higher than shown.

BIA USED AN INCORRECT FULL-TIME EQUIVALENT ENROLLMENT FIGURE FOR FISCAL YEAR 1981 BUDGET

BIA's section of the Department of the Interior's fiscal year 1981 budget submission to OMB, also contained the 1,600 figure for Navajo Community College. OMB, however, had a different figure from a private research study. This discrepancy led to a count of the full-time equivalent enrollment by the Office of Inspector General, which showed an enrollment of 624 for the fall semester 1979. Since only the fall semester was considered by the Office of Inspector General due to time constraints, we believe the 624 figure is not a valid figure for budgetary use (particularly since the college's spring semester typically has the larger enrollment). We believe our computed figure of 723 is more accurate.

The Deputy Assistant Secretary told us that he believes two semesters should have been used to estimate the college's full-time equivalent Indian enrollment. He also told us that he would determine if the Inspector General's figure was acceptable for budgetary purposes and, if not, the budget figure will be adjusted.

1/We used spring semester 1979 since the sixth week of spring 1980 had not been completed at the time of our review.

GRANT FORMULA MAY NOT BE EQUITABLE FOR SUPPORTING NAVAJO COMMUNITY COLLEGE OPERATION

The Tribally Controlled Community College Assistance Act of 1978 was intended to provide colleges with a stable source of funding which would cover most of the cost of providing education to Indian students. As far as Navajo Community College is concerned, the grant formula used in the regulations may not provide that college with adequate funding. Our calculations show that the formula will cause the college to get considerably less money than they received in the prior fiscal year. If the formula had been used in fiscal year 1980, the college would have been appropriated $2.3 million (about 50 percent) less than it had received in fiscal year 1979. The college requested $7.3 million for fiscal year 1980, but the formula would have resulted in its getting only $2.5 million, or $4.8 million less than the college requested. (We did not determine whether the other Indian colleges nationwide would be similarly affected, but as stated earlier by the Deputy Assistant Secretary for Indian Affairs, they probably would not.)

A college official told us that had the college only received $2.5 million, it would have had to (1) cut the education program by 50 percent, including closing summer sessions, (2) close some facilities, (3) terminate 150 to 170 employees, and (4) be so restricted in generating student services and programs to the point that future full-time equivalent enrollment would be reduced and a vicious circle would be created.

College officials stated that the grant formula should be revised three ways: (1) Each semester, full-time equivalent Indian students should be added together for the academic year, rather than adding this count together and then dividing by two, as the formula now requires. Adding together the full-time equivalent enrollment for both semesters would have resulted in an enrollment of 1,262, or about $5 million in grant funds for fiscal year 1980. (2) Students in classes after the sixth-week cut-off point, should be counted because many classes (such as agricultural) begin after the sixth week of a semester. In fact, college records show that these late-starting classes can account for as many as 290 full-time equivalent students in a year, or about $1.2 million in grant funds. (3) The two 5-week summer sessions should be included in the formula.

College officials stated that by not getting funding for the summer sessions, they are unable to help educate

the many people who are unable to attend college at any other time because of weather or work. College records show that the two summer sessions combined can account for 371 full-time equivalent students, or about $1.5 million in grant funds.

Revising the grant formula to comply with college officials' request could bring their funding, according to the revised formula, for fiscal year 1980 to $7.7 million, or about $1.3 million more than was appropriated.

An alternative solution would be to review the Navajo Community College's operations to determine what the actual cost per student should be. The Congress could then use the per student cost as a basis for revising the $4,000 figure. A valid per student cost for the college is important because we believe the act prohibits the college from obtaining funding under the Snyder Act. Also, the college President said the college is not receiving funding from other sources.

REGULATIONS GENERALLY CONSISTENT WITH LAW

BIA regulations are consistent with the Tribally Controlled Community College Assistance Act with one exception. The exception is in subpart B of the regulations, which implements Title II-Navajo Community College. Subpart B contains the following section:

> "Payments to Navajo Community College under this Subpart shall not disqualify the College from applying for or receiving grants or contracts under any other Federal program for which it may qualify."

It is reasonable to interpret the above provision as authorizing funding of operation, maintenance, and construction activities of the Navajo Community College under some law, such as the Snyder Act, other than the Navajo Community College Act, as amended by the Tribally Controlled Community College Assistance Act of 1978. However, such an interpretation is not consistent with the law. It is a rule of law that unless otherwise provided, where both a general statute, such as the Snyder Act, and a specific statute, such as the Tribally Controlled Community College Assistance Act of 1978, may be construed to authorize appropriations for the same purpose--in this case, to fund operation and maintenance of the Navajo Community College--only the specific statute may be used. The general statute may not be used to authorize funding when the specific appropriation has been exhausted.

The Tribally Controlled Community College Assistance Act of 1978 does provide otherwise for colleges other than the Navajo Community College. Colleges under title I of the act are specifically permitted funding under other sources.

Therefore, tribally controlled community colleges, with the exception of the Navajo Community College, may receive funding under both the Synder Act and the Tribally Controlled Community College Assistance Act of 1978. Navajo Community College may be funded only under the Navajo Community College Act, as amended by the Tribally Controlled Community College Assistance Act of 1978 since a general authorization may not be used to appropriate more than is authorized by a specific authorization.

The Deputy Assistant Secretary for Indian Affairs stated that no formal opinion had been requested from the Department of the Interior's legal department but one official advised him that the act did not prohibit the Navajo Community College from receiving funds under the Synder Act.

CONCLUSIONS

Although the grant formula required by the 1978 act was effective for fiscal year 1980, BIA did not use the grant formula to develop its fiscal year 1980 budget request because its request had been forwarded to OMB before passage of the act. During fiscal year 1980 appropriation hearings, however, BIA overestimated the Navajo Community College's full-time equivalent Indian students. As a result of BIA's overstatement, the college was appropriated $3.9 million more than allowed by the act's grant formula. The Bureau plans to take no action to reduce the funding level as required by the regulations. As of February 29, 1980, the college had received about $3.94 million of the $6.4 million obligated.

BIA regulations appear consistent with the 1978 act except for a provision that appears to allow the Navajo Community College to receive Federal funding for operations, maintenance, and construction under any other Federal law. The Navajo Community College may receive Federal funding for operations, maintenance, and construction only under the Navajo Community College Act of 1971, as amended by the Tribally Controlled Community College Assistance Act of 1978.

For the Navajo Community College, applying the grant formula prescribed by the 1978 act would have resulted in the college receiving considerably less funding in fiscal year 1980 and future years than in prior years.

The full-time equivalent enrollment figure BIA used in its fiscal year 1981 budget submission was 624. We estimate that the enrollment is 723.

RECOMMENDATIONS TO THE SECRETARY OF THE INTERIOR

The Secretary of the Interior should require the Assistant Secretary for Indian Affairs to:

--Review, with the assistance of the Inspector General, the Navajo Community College's management practices and operating expenses to determine the most equitable method for funding the college. This should be reported to the appropriate congressional committees for their consideration in making necessary appropriation and legislative changes.

--Revise the regulations so that they do not appear to allow Federal funding of the Navajo Community College for operations, maintenance, and construction activities under the Snyder Act of 1921 or any law other than the Navajo Community College Act of 1971, as amended.

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